

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ORIGINAL

WILLIAM GOREN,

Petitioner,

-v-

BUREAU OF PRISONS,

Respondent.

USDC SDNY
DOCUMENT
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DOC #:
DATE FILED: 12/05/05

No. 04 Civ. 5348 (LTS)(GWG)

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MEMORANDUM ORDER ADOPTING REPORT & RECOMMENDATION

The Court is in receipt of Magistrate Judge Gorenstein's Report and Recommendation (the "Report") which recommends that the Court deny Petitioner William Goren's request for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Petitioner filed a timely objection to the Report.

The instant case, in which Petitioner challenges the Bureau of Prisons' method of computing good time credits, has been on this Court's suspense docket pursuant to "Orders Placing the Case on Suspense" dated December 9, 2004 and August 30, 2005. The parties first requested the case be placed on the Court's suspense docket due to a pending decision by the Second Circuit in Pascuiti v. Drew, No. 04-4039 (2d. Cir.), addressing the same issue raised in this case. When the Pascuiti appeal was later dismissed as moot, Respondent requested the case be placed on the suspense docket pending the Second Circuit's decision in Sash v. Zenk, which was another appeal involving the issue raised in this case and in Pascuiti. On October 26, 2005, the Second Circuit upheld the challenged Bureau of Prisons good time credit computation policy in Sash v. Zenk, 428 F.3d 142 (2d Cir. 2005). By letter dated October 28, 2005, Respondent submitted a request that

this Court adopt the Report pursuant to the Second Circuit's decision in Sash. Petitioner has not responded to this further submission.

In reviewing a Report and Recommendation, the Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C.A. § 636(b)(1)(C) (West Supp. 2004). The Court is required to make a de novo determination as to the aspects of the Report to which objections are made. United States v. Male Juvenile, 121 F.3d 34, 38 (2d Cir. 1997).

The Court has carefully reviewed de novo Judge Gorenstein's Report and, for the reasons stated in Sash v. Zenk, the Report is adopted and the petition for a writ of habeas corpus is denied. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith. See Coppedge v. United States, 369 U.S. 438, 444 (1962).

Magistrate Judge Gorenstein's Report follows.

SO ORDERED.

Dated: New York, New York
December 2, 2005



LAURA TAYLOR SWAIN
United States District Judge

GABRIEL W. GORENSTEIN, United States Magistrate Judge.

William Goren, a sentenced prisoner currently housed at the federal prison at Otisville, New York, has petitioned this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. In his petition, he seeks to have the Bureau of Prisons calculate his "good conduct time" ("GCT") under 18 U.S.C. § 3624 on the basis of his sentence rather than on the basis of time he has actually served. See Petition for Writ of Habeas Corpus by a Person in Federal Prison, filed July 9, 2004. If